

# EXHIBIT 12

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division  
In Admiralty**

In the Matter of COEYMANS MARINE TOWING, LLC D/B/A CARVER MARINE TOWING as Owner and Operator of MiT Mackenzie Rose, (IMO No. 8968765) her cargo, engines, boilers, tackle, equipment, apparel, and appurtenances, etc., *in rem*, ("M/T MACKENZIE ROSE"), petitioning for Exoneration from or Limitation of Liability in allision with Norfolk and Portsmouth Belt Line Railroad Company Main Line Railroad Bridge (the "Bridge") occurring June 15, 2024 in and about the Elizabeth River, Virginia.

**Civil Action No: 2:24-cv-00490**

**CARVER MARINE TOWING'S FIFTH SUPPLEMENTAL RESPONSE TO NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY'S SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Fed. R. Civ. Pro. 26 and 34 and Eastern District of Virginia Local Rule 26, Petitioners Coeymans Marine Towing, LLC d/b/a Carver Marine Towing ("Carver Marine") by counsel, responds with its Third Supplemental Responses to Claimant/Respondent Norfolk and Portsmouth Line Railroad Company's (the "Belt Line") Second Set of Requests for Production of Documents pursuant to F.R.C.P Rule 34 and Local Civil Rule 26(C) as follows:

1. Produce **Your** safety management system(s) in effect from January 1, 2020 to present.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see **Safety Management Forms: CARVER 000148-149, 5.1 Master's Responsibility And Authority, CARVER 000150-151 6.12 Deckhand, CARVER 000152-154, 6.13 Mate/Captain/Relief Captain, CARVER 000155 7.16 Look Out, CARVER 000194 – 199 Safety Management Form, CARVER 000150 - 1517.9 K Navigation Watch Assessment, Norfolk, VA Data, CARVER 000162 8.8 M Steering Failure, CARVER 000163-169 9.5 Accident/Incident Reporting, CARVER 000201 – 226 Safety Management Form, 7.9 K Navigation Watch Assessment, Norfolk, VA-NC/SC State Line Data - Voyage Planning Information previously produced. Carver will endeavor to locate and produce documents responsive to Request No. 1 to the extent they exist.**

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see **CARVER 000879 - 7.9 Voyage Planning and CARVER 000890-896 - 7.9 Voyage Planning – OUTSIDE NY HARBOR.**

**SECOND SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000908 - 7.2 Distracted Operations, CARVER 000909 – 7.4 Vessel Manning, and CARVER 000910 7.12 Bridge Transits.

**THIRD SUPPLEMENTAL RESPONSE:** See CARVER 001020-1021 - 6.12 Deckhand 2024; CARVER 001022-1024 - 6.13 Mate Captain Relief Captain 2024; CARVER 001026 - 7.16 Lookout 2024; CARVER 001051 - 8.8M Steering Failure 2024; CARVER 001027-1031- 7.5 Navigation 2024; and CARVER 1032 - 7.9 Voyage Planning 2024. Additional documents responsive to this Request may be produced in the course of Carver Marine's rolling productions if any are discovered in Carver Marine's possession, custody, or control following a reasonably diligent search.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

**CARVER 001351-1698 CMT Towing Safety Management System.**

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 1:**

Carver withdraws its objection to Request no. 1 per the Court's Order of 4/24/25 [Doc. 50].

See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith.

Carver is not in possession of any additional documents responsive to Request no. 1. The production is complete.

2. Produce all **documents** relating to **Your** safety and/or training program(s), if any, in effect from January 1, 2020 to present, including all **documents** identifying who received training and when.

**RESPONSE:** See Carver's written objection to Request No. 2 served on March 7, 2025.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000886-889 HEALTH & SAFETY PLAN.

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 2:**

Carver withdraws its objection to Request no. 2 per the Court's Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. See also CARVER TBS HELM CONNECT 001079-001618 produced herewith. Carver is not in possession of any additional documents responsive to Request no. 2. The production is complete.

3. Produce all **documents** relating to James Morrissey's participation in **Your** safety and/or training program(s) from January 1, 2020 to present.

**RESPONSE:** See Carver's written objection to Request No. 3 served on March 7, 2025.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000851-885 James Morrissey Training

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

**CARVER TBS HELM CONNECT 000097-098 April Engine Room Training (James) 3.24.24**

**CARVER TBS HELM CONNECT 000099-102 6.4 Employee Assistance Program Training**

**CARVER TBS HELM CONNECT 000103-104 August Week 4 2023**

**CARVER TBS HELM CONNECT 000105-106 December Week 2 2023**

**CARVER TBS HELM CONNECT 000107-108 December Week 3 2023**

**CARVER TBS HELM CONNECT 000109-110 December Week 4 2023**

**CARVER TBS HELM CONNECT 000111-112 February Week 3 2024**

**CARVER TBS HELM CONNECT 000113-115 January Week 1 2024**

**CARVER TBS HELM CONNECT 000116-117 January Week 3 2024**

**CARVER TBS HELM CONNECT 000118-119 January Week 4 2024**

**CARVER TBS HELM CONNECT 000120-121 July Week 1 2023**

**CARVER TBS HELM CONNECT 000122-123 July Week 2 2023**

**CARVER TBS HELM CONNECT 000124-125 July Week 3 2023**

**CARVER TBS HELM CONNECT 000126-127 July Week 4 2023**

**CARVER TBS HELM CONNECT 000128-129 June Week 1 2024**

**CARVER TBS HELM CONNECT 000130-131 June Week 2 2024**

**CARVER TBS HELM CONNECT 000132-133 June Week 3 2024**

**CARVER TBS HELM CONNECT 000134-135 March Week 1 2024**

**CARVER TBS HELM CONNECT 000136-137 March Week 2 2024**

**CARVER TBS HELM CONNECT 000138-139 March Week 3 2024**

**CARVER TBS HELM CONNECT 000140-141 May Week 4 2024**

**CARVER TBS HELM CONNECT 000142-143 November Week 1 2023**

**CARVER TBS HELM CONNECT 000144-145 November Week 2 2023**

**CARVER TBS HELM CONNECT 000146-147 November Week 3 2023**

**CARVER TBS HELM CONNECT 000148-149 November Week 4 2023**

**CARVER TBS HELM CONNECT 000150-151 October Week 1 2023**

**CARVER TBS HELM CONNECT 000152-153 October Week 3 2023**

**CARVER TBS HELM CONNECT 000154-155 October Week 4 2023**

**CARVER TBS HELM CONNECT 000156-158 Security Drill Form 2023**

**CARVER TBS HELM CONNECT 000159-160 September Week 1 2023**

**CARVER TBS HELM CONNECT 000161-162 September Week 4 2023**

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 3:**

Carver withdraws its objection to Request no. 3 per the Court's Order of 4/24/25 [Doc. 50]. See also CARVER TBS HELM CONNECT 001079-001618 produced herewith. Carver is not in possession of any additional documents responsive to Request no. 3. The production is complete.

4. Produce all **documents** relating to or evidencing disciplinary history of James Morrissey, including but not limited to, any disciplinary actions taken against James Morrissey.

**RESPONSE:** See Carver's written objection to Request No. 4 served on March 7, 2025.

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 4:**

Carver withdraws its objection to Request no. 4 per the Court's Order of 4/24/25 [Doc. 50]. See CARVER 001146 and CARVER ESI 001628-0001634, served 5/28/25. Carver is not in possession of any additional documents responsive to Request no. 4 as Mr. Morrissey had no prior disciplinary history before the subject Incident. The production is complete.

5. Produce all "Near Miss Reports" related to the navigation, steering, or autopilot system on the Vessel from January 1, 2020 to present.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000037 - 042 9.2 Near Miss Report previously produced.

**THIRD SUPPLEMENTAL RESPONSE:** See CARVER 001082-1083 - 2.28.24 Auto Pilot (reproduction of CARVER 37-38); CARVER 001084-1086 5-3-24 Rudder Hard Over (reproduction of CARVER 41-42); and CARVER 001080-1081 - 7-7-22 Steering Ram. Additional documents responsive to this Request may be produced in the course of Carver Marine's rolling productions if any are discovered in Carver Marine's possession, custody, or control following a reasonably diligent search.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000163-164 9.2 Near Miss 2.28.24  
CARVER TBS HELM CONNECT 000165-166 9.2 Near Miss 4.1.24  
CARVER TBS HELM CONNECT 000167-168 9.2 Near Miss 5.3.24  
CARVER TBS HELM CONNECT 000169-170 9.2 Near Miss 7.7.22

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 5:**

Carver withdraws its objection to Request no. 5 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 5. The production is complete.

6. Produce all **documents** relating to prior accidents and/or marine casualties involving the Vessel within the past 10 years.

**RESPONSE:** See Carver's written objection to Request No. 6 served on March 7, 2025.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000829-847 - 1-24-24 Pier damage.

**THIRD SUPPLEMENTAL RESPONSE:** See CARVER 000983-1000 - 3/9/21 Incident Report; CARVER 001002-1019 - 5/20/21 Incident Report; CARVER 001033-1050 - 8/6/21 Incident Report; CARVER 0001053-1071 - 9/27/21 Incident Report; CARVER 000945-962 - 10/13/22 Incident Report; and CARVER 000964-981 - 11/17/20 Incident Report. Additional documents responsive to this Request may be produced in the course of Carver Marine's rolling productions if any are discovered in Carver Marine's possession, custody, or control following a reasonably diligent search.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000171-181 9.5 Incident Report 1.21.24  
CARVER TBS HELM CONNECT 000182-192 9.5 Incident Report 10.12.22  
CARVER TBS HELM CONNECT 000193-203 9.5 Incident Report 11.17.20  
CARVER TBS HELM CONNECT 000204-214 9.5 Incident Report 3.9.21  
CARVER TBS HELM CONNECT 000215-225 9.5 Incident Report 5.20.21  
CARVER TBS HELM CONNECT 000226-239 9.5 Incident Report 8.24.23  
CARVER TBS HELM CONNECT 000240-250 9.5 Incident Report 8.6.21  
CARVER TBS HELM CONNECT 000251-261 Incident Report 9.27.21

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 6:**

Carver withdraws its objection to Request no. 6 per the Court's Order of 4/24/25 [Doc. 50]. See Carver's First Supplemental Answer to the Belt Line's Interrogatories No. 19. Carver's First Carver is not in possession of any additional documents responsive to Request no. 6. The production is complete.

7. Produce all **documents** relating to prior accidents and/or marine casualties involving James Morrissey within the past 10 years.

**RESPONSE:** See Carver's written objection to Request No. 7 served on March 7, 2025.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000829-847 - 1-24-24 Pier damage.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000171-181 9.5 Incident Report 1.21.24  
CARVER TBS HELM CONNECT 000182-192 9.5 Incident Report 10.12.22  
CARVER TBS HELM CONNECT 000193-203 9.5 Incident Report 11.17.20  
CARVER TBS HELM CONNECT 000204-214 9.5 Incident Report 3.9.21  
CARVER TBS HELM CONNECT 000215-225 9.5 Incident Report 5.20.21  
CARVER TBS HELM CONNECT 000226-239 9.5 Incident Report 8.24.23

**CARVER TBS HELM CONNECT 000240-250 9.5 Incident Report 8.6.21**  
**CARVER TBS HELM CONNECT 000251-261 Incident Report 9.27.21**

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 7:**

Carver withdraws its objection to Request no. 7 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 7. The production is complete.

8. Produce all **documents** relating to or evidencing the repairs and/or work done on the **Vessel** for the period of June 12, 2024 through June 14, 2024, including, but not limited to, documents identifying who performed the work and a description of the work done.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000249 Mackenzie Rose\_ 6-15-2024 - AYERS1 Vendor Tech report 3533, CARVER 000250 - Mackenzie Rose\_ 6-15-2024 - Vendor Tech report 35706, CARVER 000251 -1 1-20-2023 GMT Report Auto Pilot, and CARVER 000252 - 3-2-2024 GMT Report Auto Pilot previously produced. Carver will endeavor to locate and produce additional documents responsive to Request No. 8 for the past five years or until the last Vessel overhaul to the extent they exist.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

**CARVER TBS HELM CONNECT 000262-265 Tasks – 2020**  
**CARVER TBS HELM CONNECT 000263-268 Tasks – 2021**  
**CARVER TBS HELM CONNECT 000269-271 Tasks – 2022**  
**CARVER TBS HELM CONNECT 000272-276 Tasks – 2023**  
**CARVER TBS HELM CONNECT 000277-280 Tasks – 2024**

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 8:**

Carver withdraws its objection to Request no. 8 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 8. The production is complete.

9. Produce all **documents** identifying or evidencing repairs conducted relating to the navigation, steering, or autopilot system on the **Vessel** from January 1, 2020 to present.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000033 – 36, 10. 1 DAILY ENGINE ROOM LOG – MAINT PROCED REP-MACKENZIE ROSE, CARVER 000249 Mackenzie Rose\_ 6-15-2024 - AYERS1 Vendor Tech report 3533, CARVER 000250 - Mackenzie Rose\_ 6-15-2024 - Vendor Tech report 35706, CARVER 000251 -1 1-20-2023 GMT



Report Auto Pilot, and CARVER 000252 - 3-2-2024 GMT Report Auto Pilot previously produced. See also Carver's Response to Norfolk's First Requests for Production No. 16. Carver will endeavor to locate and produce additional documents responsive to Request No. 9 for the past five years or until the last Vessel overhaul to the extent they exist.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000821 - 11-30-2023 GMT Report 8.

**THIRD SUPPLEMENTAL RESPONSE:** See CARVER 000982 - 11/30/23 GMT Report; CARVER 000963 - 10/7/23 GMT Report; CARVER 001052 - 9/22/23 GMT Report; CARVER 001074 - 9/7/23 GMT Report; CARVER 001072 - 9/3/23 GMT Report; CARVER 001025 - 7/10/23 GMT Report; CARVER 001001 - 4/4/23 GMT Report; and CARVER 000944 - 1/3/24 GMT Report. Additional documents responsive to this Request may be produced in the course of Carver Marine's rolling productions if any are discovered in Carver Marine's possession, custody, or control following a reasonably diligent search.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000262-265 Tasks – 2020  
CARVER TBS HELM CONNECT 000263-268 Tasks – 2021  
CARVER TBS HELM CONNECT 000269-271 Tasks – 2022  
CARVER TBS HELM CONNECT 000272-276 Tasks – 2023  
CARVER TBS HELM CONNECT 000277-280 Tasks - 2024

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 9:**

Carver withdraws its objection to Request no. 9 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 9. The production is complete.

10. Produce all **documents** relating to or evidencing any time within the past 10 years that the navigation, steering, or autopilot system on the **Vessel** malfunctioned.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000033 – 36 10. 1 DAILY ENGINE ROOM LOG – MAINT PROCED REP-MACKENZIE ROSE, CARVER 000234 – 243 Tug Mackenzie Rose - Emergency Steering Procedure – Rough Engine Logs, CARVER 000251 - 1-20-2023 GMT Report Auto Pilot, CARVER 000252- 3-2-2023 GMT Report Auto Pilot previously produced. Carver will endeavor to locate and produce documents responsive to Request No. 10 for five years before June 15, 2024, the date of the incident.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see:

CARVER TBS HELM CONNECT 000262-265 Tasks – 2020  
CARVER TBS HELM CONNECT 000263-268 Tasks – 2021  
CARVER TBS HELM CONNECT 000269-271 Tasks – 2022



**CARVER TBS HELM CONNECT 000272-276 Tasks – 2023**  
**CARVER TBS HELM CONNECT 000277-280 Tasks – 2024**

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 10:**

Carver withdraws its objection to Request no. 10 per the Court's Order of 4/24/25 [Doc. 50]. Carver is not in possession of any additional documents responsive to Request no. 10. The production is complete.

11. Produce all **documents** identifying or evidencing training conducted relating to the navigation, steering, or autopilot system on the **Vessel** from January 1, 2020 to present, including who performed it and who received it.

**RESPONSE:** See Carver's written objection to Request No. 11 served on March 7, 2025.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000848-850 6-2a New Crew Orientation Checklist - All Employees and CARVER 000822-828 - 6-2b New Crew Orientation Checklist - All Employees – Vessel

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 11:**

Carver withdraws its objection to Request no. 11 per the Court's Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. See also CARVER TBS HELM CONNECT 001079-001618 produced herewith. Carver is not in possession of any additional documents responsive to Request no. 11. The production is complete.

12. Produce all **documents** evidencing company rules or protocols in effect from January 1, 2020 to present relating to the use of lookouts on the **Vessel**.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, *see* CARVER 000155 7.16 Look Out previously produced.

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see: CARVER 001728-1731 Mackenzie Rose COI 20210519 Amendment 1 (5)

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 12:**

Carver withdraws its objection to Request no. 12 per the Court's Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. Carver is not in possession of any additional documents responsive to Request no. 12. The production is complete.

13. Produce all **documents** evidencing company rules or protocols in effect from January 1, 2020 to present that identify procedures for testing/inspecting the “Steering System,” “Navigation Equipment,” and “Propulsion Controls/Systems” as described in the Master Daily Vessel reporting forms for the **Vessel**.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see CARVER 000162 8.8 M STEERING FAILURE , CARVER 000194 –199 Safety Management Form 7.9 K Navigation Watch Assessment, Norfolk, VA Data, Carver 000201 – 226 Safety Management Form, 7.9 K Navigation Watch Assessment, Norfolk, VA-NC/SC State Line Data - Voyage Planning Information, and CARVER 000233 Tug Mackenzie Rose - Emergency Steering Procedure previously produced.

**SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see CARVER 000816-820 - 7.5 Navigation

**FOURTH SUPPLEMENTAL RESPONSE:** Without waiving its objections served on March 7, 2025, please see generally CARVER 001351-1698 CMT Towing Safety Management System

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 13:**

Carver withdraws its objection to Request no. 13 per the Court’s Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. Carver is not in possession of any additional documents responsive to Request no. 13. The production is complete.

14. Produce all **documents** evidencing company rules or protocols in effect from January 1, 2020 to present that identify when, how, and/or where **Your** employees must report collision or allision encountered by the Vessel.

**RESPONSE:** Subject to and without waiving its written objections served on March 7, 2025, see Safety Management Forms, CARVER 000163-169 9.5 Accident/Incident Reporting.

**FIFTH SUPPLEMENTAL RESPONSE TO REQUEST NO. 14:**

Carver withdraws its objection to Request no. 14 per the Court’s Order of 4/24/25 [Doc. 50]. See CARVER TBS HELM CONNECT 00732-1078 (Coeymans SMS), produced herewith. Carver is not in possession of any additional documents responsive to Request no. 14. The production is complete.

Dated: June 9, 2025

Respectfully submitted,

**CLYDE & CO US LLP**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of June 2025, I served the foregoing by electronic mail on the following:

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***Harold L. Cohen***

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Harold L. Cohen



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division  
In Admiralty**

In the Matter of COEYMANS MARINE TOWING, LLC D/B/A CARVER MARINE TOWING as Owner and Operator of M/T Mackenzie Rose, (IMO No. 8968765) her cargo, engines, boilers, tackle, equipment, apparel, and appurtenances, etc., *in rem*, ("M/T MACKENZIE ROSE"), petitioning for Exoneration from or Limitation of Liability in allision with Norfolk and Portsmouth Belt Line Railroad Company Main Line Railroad Bridge (the "Bridge") occurring June 15, 2024 in and

**Civil Action No: 2:24-cv-00490**

**Declaration of Josef Malik**

I, Josef Malik declare under penalty of perjury as follows:

1. I am an attorney licensed to practice in Illinois. I am Chief Legal Counsel for Carver International, which includes petitioner Coeymans Marine Towing LLC d/b/a/ Carver Marine Towing ("Carver"), as owner and operator of M/T Mackenzie Rose, in the above-entitled action. Carver acquired the Mackenzie Rose in 2020.
2. I am familiar with the discovery conducted in this case, including the First and Second Requests for Production of documents served upon Carver by the Norfolk and Portsmouth Belt Line railroad Company ("Belt Line or NPBL").
3. Per the Court's Order (Doc. 50) Carver was to produce documents responsive to numbers 4, 16, 17, 20, 21, 22, 33, 34 of the Belt Line's First Request for Production.
4. Per the Court's Order (Doc. 50) Carver was to produce documents responsive to numbers 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14 of the Belt Line's Second Request for Production.
5. I have overseen and participated in the process of gathering, reviewing, and producing responsive documents and electronically stored information for Carver's response to the Belt Line's First and Second Requests for Production.
6. The search for responsive documents referenced in Paragraph 5, above, included a review of all relevant custodians and data sources in order to fully respond to the First and Second Requests for Production. In that regard, Carver obtained documents from three sources of data: (1) Carver's own records; (2) Documents from

its Vendor, TBS as to data in Helm CONNECT, and (3) performed searches of its company email accounts as follows:

A. From its own documents and based on limited searches in Helm CONNECT, Carver produced documents responsive to the Belt Line's First and Second Requests for Production, as documented therein. The documents produced from Carver's own files are Bates numbered with the prefix "CARVER 000001-001928".

B. Carver uses Helm CONNECT, an electronic record keeping platform to assist in its marine operations. See <https://www.helmopertions.com>. Helm CONNECT stores data pertaining to safety, maintenance, scheduling certifications, crew tasks, certified Safety Management Systems (SMS) compliance training. *Id.* TBS Safety provides assistance with the Helm CONNECT data system. See <https://tbssafety.com>. TBS assisted with culling data requested in the First and Second Requests for production that was stored in the Helm CONNECT database. From Helm CONNECT, TBS provided documents on Carver's behalf which are responsive to the Belt Line's First and Second Requests for Production, as documented therein. The documents produced by TBS from the Helm CONNECT database are Bates numbered with the prefix "CARVER TBS HELM CONNECT 000001-1618".

C. From Carver's company email accounts, Carver provided email from those that had company email accounts, which were responsive to request number 34 of the Belt Line's First Request for Production. See search terms and parameters performed by Carver's IT Department on the attached Addendum A. The documents produced by Carver from its company email accounts are Bates numbered with the prefix "CARVER ESI 000001-001867".

7. In light of the Court's Order (Doc 50.) and the searches conducted above, the following responses to the **First Request for Production** are complete and there are no additional documents: 20, 21, 22, 33.

8. In addition, the following responses to the **Second Request for Production** are complete and there are no additional documents: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14.

9. Carver is searching but has not yet located documents responsive to the following requests:

A. Rosepoint data from June 10-14, 2024 and June 16 – 20, 2024 responsive to Request nos. 4 and 17 of the Belt Line's First Request for Production.



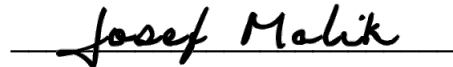
B. Cell phone data from two (2) company-issued cell phones Responsive to Request Nos. 30 and 34 of the Belt Line's First Request for Production. Only Leonard Baldassare, now a former employee, had a company-owned cell phone provided by Carver and the Mackenzie Rose was also equipped with a company-issued cell phone.

C. Engine room logs, responsive to request no. 16 of the Belt Line's First Request for Production

10. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the production of documents identified by Carver (as referenced in paragraphs 7 and 8 above) in response to its First Supplemental Response to the Belt Line's First Requests for Production and Fifth Supplemental Response to the Belt Line's Second Requests for Production above, are complete and correct as of the date of this declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 9<sup>th</sup> of June 2025, Chicago, Illinois.

A handwritten signature in black ink, reading "Josef Malik", is written over a horizontal line.

**Josef Malik**

Under penalties provided by law pursuant to 28 U.S.C. § 1746, I, Josef Malik, certify that the statements set forth in this Affidavit are true and correct, except as to matters therein stated to be on information and belief, and as to such matters I certify that I verily believe the same to be true.

## ADDENDUM A

### EMAIL ESI SEARCH

#### Custodians

- [bmoore@carvercompanies.com](mailto:bmoore@carvercompanies.com)
- [lbaldassare@carvercompanies.com](mailto:lbaldassare@carvercompanies.com)
- [cmiller@carvercompanies.com](mailto:cmiller@carvercompanies.com) (Capt Chris Miller – check this is correct Carver email)
- Crew members with a Carver Email Address
- [tugmackenzie@carvercompanies.com](mailto:tugmackenzie@carvercompanies.com)

#### Date Range

- June 1, 2024 to September 15, 2024

#### Terms

- [john.r.crow@uscg.mil](mailto:john.r.crow@uscg.mil)
- [meghan.e.palomba@uscg.mil](mailto:meghan.e.palomba@uscg.mil)
- [luke.wisniewski@ntsb.gov](mailto:luke.wisniewski@ntsb.gov)
- [cabel@wilsav.com](mailto:cabel@wilsav.com)
- [collin@tbssafety.com](mailto:collin@tbssafety.com)
- [pat@tbssafety.com](mailto:pat@tbssafety.com)
- “Mackenzie rose” AND bridge
- “mack rose” AND bridge
- Mackenzie AND rose AND bridge
- “m/v MACKENZIE ROSE” AND repair
- “Main Line Bridge”
- “Elizabeth River”
- “Norfolk & portsmith Belt Line Railroad Company”
- “Belt Line” AND bridge
- “MACKENZIE ROSE” and “deck log”
- “mackenzie rose” AND “engine log”
- Mackenzie AND ROSE AND “ENGINE LOG”
- Mackenzie AND ROSE AND “Deck Log”
- “2692”
- “CG-2692”
- Allide! AND bridge
- Allision AND bridge
- “Safety Management System”
- “Health and Safety Plan”
- “autopilot”
- Auto AND pilot
- “HARD OVER”
- “incident report”
- “incident statement”
- “Mackenzie rose” AND incident
- “crew” AND “statement”

- **“TBS”**
- **“Tug and barge solutions”**
- **“coast guard” AND “investigation”**
- **“USCG” AND “investigation”**
- **Bridge AND damage**
- **Bridge AND PHOTO!**
- **“June 15, 2024” AND incident**
- **“6/15” AND incident**
- **“6/15/24” AND incident**
- **“6-15-24” AND incident**
- **“Mackenzie rose” AND “mackay”**
- **“Mackenzie rose” AND “GMT”**
- **“Mackenzie rose” AND “AYERS”**
- **“MACKAY”**
- **“gmt”**
- **“AYERS”**
- **“Morrissey” AND “terminate”**
- **“Morrissey” AND “suspend”**